

To: Blankenship, Melissa[Blankenship.Melissa@epa.gov]
From: Delancey, George J LRL
Sent: Thur 9/19/2013 1:30:27 PM
Subject: RE: [EXTERNAL] (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

What is EPA's reading of this. IDEM is saying the 401 stands but they need to do more work?

-----Original Message-----

From: Blankenship, Melissa [mailto:Blankenship.Melissa@epa.gov]
Sent: Wednesday, September 18, 2013 1:20 PM
To: Pellegrini, Janet; McKim, Krista; Pierard, Kevin
Cc: Delancey, George J LRL; Melgin, Wendy MVS External Stakeholder
Subject: [EXTERNAL]

State judge rules major Ind. mine lacks proper water permit

Jeremy P. Jacobs, E&E reporter

Published: Wednesday, September 18, 2013

Indiana violated the Clean Water Act by allowing one of the largest surface coal mines in the country to operate without a thorough review of how it affects nearby waterways, a state judge ruled this week.

Public health advocates including the Sierra Club and Environmental Law & Policy Center brought the lawsuit challenging the Indiana Department of Environmental Management's (IDEM) water permit for the Bear Run coal mine in Sullivan County.

They claimed IDEM did not perform the requisite anti-degradation review, which ensures there are adequate protections in place for local waterways.

Indiana Environmental Law Judge Catherine Gibbs agreed and sent the permit back to IDEM to conduct a proper review.

The Bear Run coal mine, owned by Peabody Energy Corp., produces between 8 million and 12 million tons of coal annually.

"It was Peabody's burden to make an affirmative demonstration that degradation of receiving waters was justified by economic or social factors and would not cause violations of water quality," Gibbs wrote <http://www.eenews.net/assets/2013/09/18/document_gw_07.pdf> . "Peabody failed to do so."

Jodi Perras of Sierra Club's Beyond Coal campaign said the ruling highlights shortcomings in Indiana's environmental reviews.

"If you're digging the largest surface mine east of the Mississippi River, Judge Gibbs recognizes that you must protect local waterways for the use of residents and wildlife," Perras said. "It's time for IDEM to start doing its job and protect the waters of Indiana from coal mine pollution, as the Clean Water Act requires."

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